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1. On May 6, 2016, the Debtors filed a Chapter 13 petition for relief under Title 11 of the United States Code. The Debtors subsequently converted their case to a case under Chapter 7 on July 26, 2016.

3. Debtors operate a business in the State of Arizona and are required to file and pay transaction privilege (“TPT”) and withholding (“WTH”) tax returns. Debtors reside in the State of Arizona and are required to file and pay personal income tax returns.

5. The Department was forced to file an estimated proof of claim due to the Debtors failure to file and pay:

6. The Department filed an Application for 2004 Examination on September 15, 2016, Docket No. 42. An Order granting the Application was entered on September 15, 2015 (“2004 Exam Order”), Docket No. 44.

1           7.       The Department served a copy of the Order on the Debtors and their counsel on  
2 September 23, 2016 and set a deadline of October 6, 2016 to produce the documents.

3           8.       On October 7, 2016, Counsel for the Department emailed Counsel for the  
4 Debtors seeking whether the Debtors would stipulate to allow for the extension of filing a 727  
5 complaint and gave them until close of business on October 13, 2016 to respond.  
6

7           9.       On October, 17, 2016, Counsel for the Department spoke with Counsel for the  
8 Debtors who indicated that the Debtors would not oppose an extension of the deadline for the  
9 Department to object to the Debtors' discharge. An extension to October 28, 2016 to comply  
10 with 2004 Exam Order was granted to the Debtors.  
11

## 12       **II.     Legal Basis**

13           The Department sent a cover letter and a copy of the 2004 Exam Order to the Debtors  
14 on September 15, 2016. The cover letter set a date of October 6, 2016 to produce the requested  
15 documents but stated that additional time could be requested if needed. The cover letter and the  
16 2004 Exam Order were sent to the Debtors at the address listed on their petition via regular and  
17 certified mail. The certified mail copies sent to the Debtors were returned as undeliverable,  
18 however the regular mail sent to the Debtors was not returned as undeliverable. The same  
19 cover letter and a copy of the 2004 Exam Order was sent to the Counsel for the Debtors and  
20 was not returned as undeliverable. The Debtors have only requested additional time to respond  
21 today to 2004 Exam Order. Lastly, the Debtors have not responded to the Department's request  
22 to file the prepetition tax returns listed above.  
23  
24

25           FRBP 4004(b)(1) allows a party in interest to request an extension of the deadline to  
26 object to discharge and the Court, after notice and hearing, may grant such a request for cause.

1 The Ninth Circuit Court of Appeals in *Willms v. Sanderson*, 723 F.3d 1094, 1104 (9th Cir.  
2 2013) stated that a creditor must show why it was not able to comply with the deadline as  
3 originally set.

4 The Debtors' failure to comply with and abide by the 2004 Exam Order of this Court  
5 and their lack of cooperation with the Department make it impossible for the Department to  
6 assess whether it is necessary or prudent to file a complaint to deny the Debtors' discharge in  
7 accordance with 11 U.S.C. §727. Based on the Debtors' inaction, the Department requests a 90  
8 day extension in order to review documents produced under the 2004 Exam Order and conduct  
9 an examination under oath in order to allow the Department to make an informed  
10 determination whether it should file a complaint to deny the Debtors a discharge under 11  
11 U.S.C. §727.  
12

13  
14 **III. Conclusion**

15 Based on the foregoing, the Department requests this Court to approve the Department  
16 Motion and grant a 90 day extension of the deadline to file objections to the Debtors'  
17 discharge.  
18

19 RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of October, 2016.

20 MARK BRNOVICH  
21 Attorney General

22 /s/CJD No. 027114  
23 Christopher J. Dylla  
24 Assistant Attorney General  
25 Attorney for the State of Arizona  
26 *ex rel.* Arizona Department of Revenue

1 ORIGINAL of the foregoing filed electronically  
2 this 17<sup>th</sup> day of October, 2016 with:

3 United States Bankruptcy Court  
4 Phoenix Division  
5 230 North First Avenue, Suite 101  
6 Phoenix, AZ 85003

7 COPY of the foregoing sent for mailing  
8 this 17<sup>th</sup> day of October, 2016 to:

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12 Phoenix, AZ 85014  
13 *Attorney for Debtors*

14 Roger W. Brown  
15 P.O. Box 32967  
16 Phoenix, AZ 85064  
17 *Chapter 7 Trustee*

18 /s/ R. Scott Graves  
19 #5368286/BCE16-01340  
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